

Client: Portsmouth Hospitals NHS Trust - 3000019-1912

Matter: Gosport Inquiry

Date of Attendance: 12 February 2016

Fee Earner: **Code B**

Telephone conference call on Friday 12 February 2016 at 3:30pm.

## **Code B**

Peter Mellor ("PM") – Director of Corporate Affairs and Business Development

SK acknowledged the recent email exchange with PM that morning and confirmed that he and DB had considered how to take this forward.

SK acknowledged that the Trust was being put under a great deal of pressure to disclose the entire file of papers to the enquiry.

SK said that he had rung **Code B** and asked for a call back from **Code B** who is advising the DH (formerly the PCT). **Code B** is working off site, at a location where she does not have regular wifi, so contact not possible at this time.

SK advised that in **Code B** absence he had spoken with **Code B** one of the other partners who was assisting with this matter. She confirmed that they had not disclosed their papers to the Gosport Inquiry. In fact they were still going through their papers and was keeping disclosure under review. They had no instructions to waive privilege at this time. In fact, Emma was repeating the conversation that SK had with **Code B** before Christmas. There had been no change in their client's position.

SK said that he was confident that the Trust was not an outlier, despite what they were being told. In fact what was being suggested to the Trust was simply not true. PM referred to the letter from **Code A** which he thinks had input from **Code A** which says in part 'unlike other stakeholders', the inference being that the Trust are the only ones who have not co-operated and made all their files available. This letter has gone to the Trust CE and Chair.

SK confirmed that we will make a note of this conversation (including the conversation with Hills Dickinson) and stick it on the file. In the end it may not affect PM's decision on disclosure.

SK then considered what we were going to do; there are 4 groups of documents:

1. Those which we could disclose asap
2. Those which are technically privileged
  - a. Those which are privileged but you could disclose. This is a matter for PM. You may choose to waive privilege. DB will highlight what these papers are. Amongst them are papers including discussion with groups and discussion of strategy. We can let you have those next week.
  - b. Those which are privileged and involve third parties, eg Dr Barton/MDU. These also include Ian Reid's comments which were sent to our Counsel. SK's view is that as a matter of professional courtesy we should not disclose the Ian Reid's papers/comments at this time. We do not know if he has been

contacted by the Inquiry. We do not know if he is involved in the Inquiry. SK explained that he was making a technical point. At the end of the day the papers are for PM to do as he wishes. PM stated that [Code A] has now retired. He saw him the other day. He did not mention that he had been contacted by the Inquiry.

PM stated that Sir Ian has not seen letter and he is not there this week or next. Letter may not get to Sir Ian but if it does he will want it sorted. Portsmouth is an item on the Agenda of the NHS top team so they are very much under the spotlight.

PM may still ask SK to write a letter to the panel [Code A] to set the record straight. SK agreed that we could get a letter out at the appropriate level and the appropriate juncture.

PM is only at work next Wed and Thurs. W/C 22 Feb is the last week without [Code A]

SK said he will do a letter explaining why and what's been done by the end of February which is two weeks. There are two points – waive privilege – SK wants to tell the PCT's lawyers – needs to get some thoughts, identify documents, as a matter of courtesy let Ian know. Ian knows the Panel has been convened. The Panel are not intending to call witnesses – purely a paper exercise.

PM – not easily put off. The CEO is aware of it all. Why should Ursula be brought into it – enough trouble already.

Call ended at 4 pm.

**SK**

PS: although SK say four categories we only discussed three, but of course the 4<sup>th</sup> relates to the hearing documents already provided.